

Amendment No. 1 to SB3904

Johnson
Signature of Sponsor

AMEND Senate Bill No. 3904*

House Bill No. 3793

by deleting all language following the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 10-7-504 is amended by adding the following language as new, appropriately designated subsections:

(n) Notwithstanding any law to the contrary, the following documents submitted to the State in response to a request for proposal or other procurement method shall remain confidential after completion of the evaluation period:

(1) Discount, rebate, pricing or other financial arrangements at the individual drug level between pharmaceutical manufacturers, pharmaceutical wholesalers/distributors, and pharmacy benefits managers (as defined in § 56-7-3102) that a proposer:

(i) Submits to the State in response to a request for proposals or other procurement methods for pharmacy-related benefits or services;

(ii) Which the proposer includes in its cost or price proposal, or provides to the State after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee; and

(iii) Explicitly marks as confidential and proprietary.

(2) Discount, rebate, pricing or other financial arrangements at the individual provider level between health care providers and health insurance entities (as defined in § 56-7-109), insurers, insurance arrangements and third party administrators that a proposer:

(i) Submits to the State in response to a request for proposals or other procurement method after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee, in response to a request by the State for additional information; and

(ii) Explicitly marks as confidential and proprietary.

(o) Information made confidential by subsection (n) shall be redacted wherever possible; and nothing contained in subsection (n) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information. The confidentiality established by subdivision (n)(2) is applicable only to information submitted to the State after completion of the evaluation period; and provision of the notice of intended award of the contract and such information shall only be used to validate the accuracy of the apparent contract awardee's proposal and shall not be used to alter the scope of the information required by the State's procurement document requesting proposals. Any report produced by the State, or on the State's behalf, utilizing the information made confidential by subdivision (n)(2) shall not be considered confidential hereunder so long as such report is disclosed in an aggregate or summary format without disclosing discount, rebate, pricing or other financial arrangements at the individual provider level.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.